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CHESS FEDERATION, INC. and RANDALL D. HOUGH**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA****UNITED STATES OF AMERICA
CHESS FEDERATION, INC., et al,**

Plaintiffs,

v.

SUSAN POLGAR, et al.,

Defendants.

Case No. 3:08-CV-05126-MHP

**DECLARATION OF KARL
KRONENBERGER IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT POLGAR'S MOTION
TO COMPEL**

DATE: September 14, 2009

TIME: 2:00 p.m.

CTRM: 15, 18th Floor

JUDGE: The Hon. Marilyn H. Patel

SUSAN POLGAR,

Counter-Plaintiff,

v.

**BILL GOICHBERG, BILL HALL, RANDY
BAUER, JIM BERRY, KARL
KRONENBERGER,**

Third Party Defendants,

v.

RANDALL HOUGH,

Counter-Defendant.

Case No. 3:08-CV-05126-MHP

**DECL. OF K. KRONENBERGER ISO
OPPOSITION TO MOTION TO COMPEL**

1 I, Karl S. Kronenberger, declare as follows:

2 1. I am an attorney admitted to practice in the State of California and the
3 United States District Court for the Northern District of California. I am a partner at the
4 law firm of Kronenberger Burgoyne, LLP, counsel of record for Plaintiffs United States of
5 America Chess Federation, Inc. ("USCF") and Randall D. Hough ("Hough"). Unless
6 otherwise stated, I have personal knowledge of the matters stated herein.

7 2. Polgar filed her complaint in Texas on August 7, 2008. On August 25,
8 2008, counsel for the USCF informed Polgar's Texas counsel that Polgar had
9 referenced stolen, attorney-client privileged emails in Polgar's complaint in Texas. The
10 letter demanded that Polgar refrain from using all such privileged materials, and that
11 Polgar segregate the same into sealed envelopes until the issue could be ruled upon by
12 the judge. Attached hereto as Exhibit A is a true and correct copy this letter dated
13 August 25, 2008.

14 3. Attached hereto as Exhibit B is a true and correct copy of a letter received
15 from Polgar's counsel on August 28, 2008.

16 4. Attached hereto as Exhibit C is a true and correct copy of a letter received
17 from Polgar's counsel on October 15, 2008.

18 5. Alexander is an employee of the University of Washington.

19 6. Attached hereto as Exhibit L is a true and correct copy of a printout from
20 the USCF Internet forum.

21 7. Attached hereto as Exhibit D is a true and correct copy of a letter to dated
22 October 8, 2008 to Polgar's counsel.

23 8. Attached hereto as Exhibit E is a true and correct copy of the email sent
24 Mr. Leigh an email on November 7, 2008.

25 9. Attached hereto as Exhibit F is a true and correct copy of the transcript
26 from the meet and confer session held on April 21, 2009 and attended by Whitney Leigh
27 and myself.

28 10. The emails attached to Mr. Sloan's complaint are unrelated to the

1 privileged emails that Mr. Leigh admitted reading in the April 21, 2009 meet and confer
2 session.

3 11. Attached hereto as Exhibits G, H and I are true and correct copies of the
4 three letters I sent to Mr. Leigh. To date, Mr. Leigh has not returned or confirmed
5 destruction of any of these stolen emails.

6 12. The USCF's document production to Polgar included emails received by
7 USCF parties from Sam Sloan. Sam Sloan is a defendant and counterclaimant in the
8 Texas action, and upon filing his counterclaim and exhibits, he emailed as a PDF
9 document his counterclaim and exhibits to all the USCF parties. Thus, in response to
10 discovery requests from Polgar, the USCF turned over all correspondence to the USCF
11 from Sloan, including his counterclaims and exhibits exactly how they were uploaded
12 into the ECF-Pacer system. Unbeknownst to the USCF, in one of the many attachments
13 to Sloan's counterclaims were two emails stolen from the USCF and posted to the
14 Internet. The USCF was simply not aware that Sloan had attached these to his
15 counterclaims or that the USCF had inadvertently provided these stolen emails to Polgar
16 by handing over copies of the counterclaims exhibits.

17 13. Within days of the USCF becoming aware that Mr. Sloan's filings had
18 contained copies of two stolen emails, the USCF a) informed Polgar's counsel of the
19 inadvertent disclosure, and thereafter b) filed an objection with the court in Texas about
20 Sloan's objectionable exhibits, noting how Mr. Sloan has consented to the removal of
21 the two privileged emails from the public ECF-Pacer system. The court has not yet ruled
22 on this matter. Attached hereto as Exhibit J is a true and correct copy of the letter
23 informing Polgar's counsel of the inadvertent disclosure.

24 14. When two stolen emails from Sloan's counterclaims were marked as
25 exhibits in Texas depositions, the USCF marked the documents as "CONFIDENTIAL"
26 under the Texas protective order. Despite the USCF's request to the Texas court to
27 remove these two emails from the ECF-Pacer system, and despite the CONFIDENTIAL
28 designation of these documents, Polgar has continued to refer to these two emails in

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1 court filings and actually attach these emails to court filings.

2 15. Polgar at the time of the April 15, 2009 hearing had not, and to date still
3 has not, provided facts to the USCF regarding her request for indemnification or why it
4 was supposedly mishandled.

5 16. Attached hereto as Exhibit K is a true and correct copy of the letter from
6 Illinois counsel to Polgar.

7 17. Polgar never responded to this letter from Illinois counsel.

8 18. The "Next Steps" email a) has had its subject line, recipients and sender
9 information deleted; b) a fake subject line has been inserted, c) content in the email has
10 been changed, d) portions of the email have been deleted, and, e) in the latest version
11 of the email provided to the USCF by counsel, Polgar has redacted the header of the
12 email, obscuring key information about where the email came from.

13 19. The USCF produced 461 documents in initial disclosures and 191
14 documents in response to Polgar's discovery requests. Bates numbers in the California
15 action run from USCF000001-USCF000652. Further, the USCF had already produced
16 in Texas 13,617 pages of documents before Polgar's California requests.

17 I declare under penalty of perjury under the laws of the United States of America
18 that the foregoing is true and correct and that this Declaration was executed on August
19 31, 2009, in San Francisco, California.

20
21 /s/ Karl S. Kronenberger
Karl S. Kronenberger

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